

# The Pro Bono Priority

By formally promoting pro bono service, Michigan's law schools can help students live up to the profession's ethical ideals.

By *Dolores M. Coulter*

*The Pro Bono Priority is a two-part feature on pro bono service in Michigan law schools. In Crossing the Bar, the column of the Legal Education Committee, Dolores M. Coulter discusses how Michigan law schools measure up to the recommendations made in Learning to Serve, the report of the Commission on Pro Bono and Public Service Opportunities from the Association of American Law Schools. In the Access to Justice column, Robert E. Precht and Suellen Scarnecchia focus specifically on the University of Michigan's unique approach to pro bono service.*

The inscription over the entrance to the U.S. Supreme Court reminds lawyers that they are guardians of a legal tradition that aspires to "equal justice under law." Upon admission to practice, we are admonished to "never reject from any [personal] consideration, the cause of the defenseless or oppressed." The Voluntary Standard for Pro Bono Participation, adopted by the State Bar of Michigan, calls on attorneys to deliver pro bono legal services to the poor through direct representation, legal assistance to charitable groups, public service, or monetary contributions.<sup>1</sup> It is a fair question to ask, then, if law schools teach the ethic of pro bono service.

The 1996 American Bar Association law school accreditation standards urge law schools to encourage student participation in pro bono activities and to provide opportunities for them. In 1997 the Association of American Law Schools (AALS) created the Commission on Pro Bono and Public Service Opportunities to address pro bono and public service in legal education. The commission, chaired by University of Michigan Law School Professor David Chambers, issued its report, *Learning to Serve*, in 1999.<sup>2</sup>

The AALS study found great diversity among law school programs and policies, the level of student participation, and the level of law school support. Only 14 law schools required students to perform a minimum number of hours of law-related pro bono work.<sup>3</sup> Harvard Law School adopted a policy earlier this year that requires at least 40 hours of pro bono work by all law students, although it includes clinical work for credit. Some schools provide staff support for pro bono programs, while others are primarily student-run. Although 95 percent of the law school deans agreed that "it is an important goal of law schools to instill in students a sense of obligation to perform pro bono work during their later careers," the commission's central conclusion was "brief and blunt: law schools should do more."

The commission's key recommendations were that law schools 1) make available a well-supervised law-related pro bono opportunity and either require or encourage the great majority of students to volunteer, and 2) adopt a formal policy to encourage and support faculty members to perform pro bono work that includes an annual expectation of service for substantially full-time law teachers, with annual reporting.

The commission's recommendations reflect that access to justice and public service should become institutional priorities. The availability of pro bono opportunities at law schools and participation by students and faculty should be part of a larger "culture of commitment" that permeates all law school

activities. Thus, in reviewing a law school's commitment to pro bono service, it is important to ask what opportunities are available to students, what individual faculty members are doing, and whether the school's commitment to pro bono service is recognized in official statements and publications as part of its mission. Is the ethic of pro bono service integrated across the law school curriculum? Do classes on professional responsibility include discussion of the pro bono standard and the wide gap between the aspirational standards and the reality of low participation among practicing lawyers? Do classes on law practice management include a discussion of how to integrate pro bono work with compensated legal work? Do substantive law classes, such as criminal law and constitutional law, emphasize that many of the leading cases were litigated by pro bono attorneys? Does the law school officially recognize outstanding pro bono service by students and faculty?

Five of Michigan's six law schools (the exception is Ave Maria, which just completed its first year of operation) offer students work in law school-supported clinics that serve low income persons. The University of Michigan offers clinics in several areas: general civil, criminal appeals, child advocacy, asylum and refugees, and urban communities. Wayne offers the Free Legal Aid Clinic. University of Detroit Mercy offers immigration and urban law clinics. Cooley offers the Sixty Plus Elder Law Clinic, estate planning, and the Innocence Project. MSU-Detroit College of Law offers rental housing and tax clinics.

However, the AALS Commission distinguished pro bono work from participation in law school clinics or internships where students receive credit or pay for their work.

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All columns are the opinion of the writer and do not represent the position of the Legal Education Committee.

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Clinics and internships may indirectly encourage students to do pro bono work, as a result of their exposure to consequences experienced by persons who are unable to afford legal counsel, but the central mission of such programs is not to teach the ethic of pro bono service.

No Michigan school has formally adopted either of the commission's recommendations regarding pro bono service. Each school offers some opportunities for students to engage in pro bono work in addition to clinics and internships, but none mandate the services and none have attracted the great majority of students to perform such work. The University of Michigan's Office of Public Service offers a wide variety of pro bono placements for students. An example is the Family Law Project of Legal Services of Southern Michigan funded in large part by the law school, in which students help domestic violence victims get personal protection orders. Wayne has two volunteer Access to Justice projects that will begin this fall. The Asylum Law project, a collaboration with the Detroit Metropolitan Bar Association and the Freedom House, will represent persons facing deportation. The Elder Law Project, a collaboration with the Legal Aid and Defender Association, will provide legal assistance to low-income seniors. Students will be expected to commit 30 hours per year during their law school career. Cooley has established a Volunteer Corps through its placement office that matches students with volunteer legal and nonlegal placements. Students are expected to make a minimum 12-week commitment. The Ave Maria School of Law is working with the Christian Legal Society to establish a volunteer neighborhood legal aid clinic in Detroit.

Requiring students to perform pro bono service during their law school career has been the subject of some discussion. The University of Michigan Public Interest Group identified the issue of mandatory pro bono work as one of several public interest law topics that will be addressed in a series of debates in Fall, 2001. Ann Miller, Associate Dean of Program and Planning at Cooley, reported that the school considered requiring pro bono work but prefers to encourage the work. The University of Michigan requires

each new student to participate in a day of community service as part of its orientation process. Ave Maria has a similar requirement.

None of the law schools specifically refer to pro bono service in their mission statements posted on their websites. The University of Detroit Mercy and Ave Maria come closest in acknowledging a public service component. In response to "Why UDM Law?" the school describes its mission as producing skilled practitioners who are compassionate professionals guided by a concern for human dignity. Ave Maria's statement emphasizes a commitment to justice, excellence, and the highest ethical and moral standards.

Both UDM and Cooley reported that the issue of pro bono service is directly addressed in their professional responsibility classes. UDM Professor Lawrence Dubin stated that UDM integrates ethical considerations in all law school courses and sponsors a moot court on ethical issues. Ave Maria strives to integrate the natural law tradition, which has human dignity at its core, across its curriculum.

If a law school's message regarding the importance of pro bono work is to have credibility, the administration and faculty must "practice what they preach." Each Michigan school reported that faculty are encouraged to

engage in pro bono work and that the criteria for granting tenure include service. Many individual faculty members perform extensive pro bono work. However, none of the law schools have adopted the AALS Commission's recommendation that law schools adopt a formal policy to encourage and support all faculty to perform pro bono service.

This brief survey indicates that the AALS Commission's central finding regarding law school efforts to promote the ethic of pro bono service is applicable to Michigan's law schools: although progress has been made, much remains to be done. ◆

*Dolores M. Coulter is the directing attorney of the Flint office of Legal Services of Eastern Michigan. She focuses her practice on elder law and is a member of the Elder Law and Advocacy Section Council. She is a graduate of Marygrove College and Harvard Law School.*

#### FOOTNOTES

1. See also Rule 6.1 of the ABA Model Rules of Professional Conduct.
2. The report is discussed in more detail in an article by David L. Chambers and Cynthia F. Adcock, "Learning and Serving: Pro Bono Legal Services by Law Students," 79 MBL 1056 (August, 2000).
3. *Learning to Serve*, Report of the Commission on Pro Bono and Public Service, Association of American Law Schools, 1999, Appendix.